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असाधारण

EXTRAORDINARY

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PART II—Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 17th December, 1976/Agrahayana 26, 1898 (Saka)

THE EAST PUNJAB URBAN RENT RESTRICTION
(CHANDIGARH AMENDMENT) ORDINANCE, 1976

No. 14 OF 1976

Promulgated by the President in the Twenty-seventh Year
of the Republic of India.

An Ordinance further to amend the East Punjab Urban Rent
Restriction Act, 1949, as in force in the Union territory of
Chandigarh.

WHEREAS Parliament is not in session and the President is satisfied that
circumstances exist which render it necessary for him to take immediate
action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of
article 123 of the Constitution, the President is pleased to promulgate the
following Ordinance, namely:--

1. (1) This Ordinance may be called the East Punjab Urban Rent
Restriction (Chandigarh Amendment) Ordinance, 1976.

(2) It shall come into force at once.

Short
title
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East
Punjab
Act
III of
1949
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Amend-
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section 2.

Amend-
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of
section
13.

Insertion
of new
section
13A.

Right to
recover
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possession of
residential or
scheduled build-
ing to
accrue
to certain
persons.

2. During the period of operation of this Ordinance, the East Punjab Urban Rent Restriction Act, 1949, as in force in the Union territory of Chandigarh (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3, 4, 5, 6, 7 and 8.

3. In section 2 of the principal Act, in clause (h), for the words "the Schedule to this Act", the words and figure "Schedule I to this Act" shall be substituted

4. In section 13 of the principal Act,—

(a) in sub-section (3), the following *Explanation* shall be inserted at the end, namely:—

'Explanation.—For the purposes of this sub-section, "residential building" includes a schedule building.;

(b) after sub-section (4), the following sub-section shall be inserted, namely:—

"(4A) Where a landlord who, having evicted any tenant from a residential or a scheduled building in pursuance of an order made under section 13A,—

(a) does not occupy it, or

(b) within a period of three years from the date of such eviction of the tenant, lets out, without obtaining the written permission of the Controller for so doing, the whole or any part of such residential or scheduled building, to any person other than tenant evicted from it,

the evicted tenant may apply to the Controller for an order directing that the possession of such residential or scheduled building or, as the case may be, part thereof, shall be restored to him and the Controller shall make an order accordingly."

5. After section 13 of the principal Act, the following section shall be inserted, namely:—

"13A. (1) Where a landlord who, being a person in occupation of any residential building allotted to him by the Central Government or any local authority, is required by, or in pursuance of, any general or special order made by that Government or authority, to vacate such residential building, or in default, to incur certain obligations, on the ground that he owns, in the Union territory of Chandigarh, a residential or a scheduled building either in his own name or in the name of his wife or dependent child, there shall accrue, on and from the date of such order, to such landlord, notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract (whether express or implied), custom or usage to the contrary, a right to recover immediately the possession of any residential or scheduled building let out by him:

Provided that nothing in this section shall be construed as conferring a right on a landlord owning, in the Union territory of Chandigarh two or more residential or scheduled buildings, whether in his own name or in the name of his wife or dependent child, to recover the possession of more than one residential or scheduled building and it shall be lawful for such landlord to indicate the residential or scheduled building, possession of which he intends to recover:

Provided further that where any residential or scheduled building contains more than one residential unit, nothing in this section shall be construed as conferring a right on the landlord to recover possession of more than such number of residential units as are sufficient for his own use and occupation, and for this purpose, it shall be lawful for the landlord to indicate the residential unit or units, the possession of which he intends to recover.

(2) Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract, custom or usage to the contrary, where the landlord exercises the right of recovery conferred on him by sub-section (1), no compensation shall be payable by him to the tenant or any person claiming through or under him and no claim for such compensation shall be entertained by any court, tribunal or other authority:

Provided that where the landlord had received,

(a) any rent in advance from the tenant, he shall, within a period of ninety days from the date of recovery of possession of the residential or scheduled building by him, refund to the tenant such amount as represents the rent payable for the unexpired portion of the contract, agreement or lease;

(b) any other payment, he shall, within the period aforesaid, refund to the tenant a sum which shall bear the same proportion to the total amount so received, as the unexpired portion of the contract or agreement or lease bears to the total period of contract or agreement or lease:

Provided further that, if any default is made in making any refund as aforesaid, the landlord shall be liable to pay simple interest at the rate of six per cent. per annum on the amount which he has omitted or failed to refund."

6. After section 18 of the principal Act, the following sections shall be inserted, namely:—

Insertion
of new
sections
18A and
18B.

"18A. Section 18B or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained elsewhere in this Act or in any other law for the time being in force.

Section
18B
to have
over-
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effect

Special
proce-
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disposal
of appli-
cations
for
eviction
on the
ground
of bona
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18B. (1) Every application by a landlord for the recovery of possession of any residential or scheduled building on the ground specified in section 13A shall be dealt with in accordance with the procedure specified in this section.

(2) The Controller shall issue summons, in relation to every application referred to in sub-section (1), in the form specified in Schedule II to this Act.

(3) (a) The Controller shall, in addition to, and simultaneously with, the issue of summons for service on the tenant, also direct the summons to be served by registered post, acknowledgment due, addressed to the tenant or his agent empowered to accept the service at the place where the tenant or his agent actually and voluntarily resides or carries on business or personally works for gain and may, if the circumstances of the case so require, also direct the publication of the summons in a newspaper circulating in the locality in which the tenant is last known to have resided or carried on business or personally worked for gain.

(b) When an acknowledgment purporting to be signed by the tenant or his agent is received by the Controller or the registered article containing the summons is received back with an endorsement purporting to have been made by a postal employee to the effect that the tenant or his agent had refused to take delivery of the registered article, the Controller may declare that there has been a valid service of summons.

(4) The tenant on whom the summons is duly served (whether in the ordinary way or by registered post) in the form specified in Schedule II to this Act shall not contest the prayer for eviction from the residential or scheduled building unless he files an affidavit stating the grounds on which he seeks to contest the application for eviction and obtains leave from the Controller as hereinafter provided; and in default of his appearance in pursuance of the summons or his obtaining such leave, the statement made by the landlord in the application for eviction shall be deemed to be admitted by the tenant and the applicant shall be entitled to an order for eviction on the ground aforesaid.

(5) The Controller shall give to the tenant leave to contest the application if the affidavit filed by the tenant discloses such facts as would disentitle the landlord from obtaining an order for the recovery of possession of the residential or scheduled building on the ground specified in section 13A.

(6) Where leave is granted to the tenant to contest the application, the Controller shall commence the hearing of the application as early as practicable.

(7) Notwithstanding anything contained in this Act, the Controller shall, while holding an inquiry in a proceeding to which this section applies, follow the practice and procedure of a Court of Small Causes including the recording of evidence.

(8) No appeal or second appeal shall lie against an order for the recovery of possession of any residential or scheduled building made

by the Controller in accordance with the procedure specified in this section:

Provided that the High Court may, for the purpose of satisfying itself that an order made by the Controller under this section is according to law, call for the records of the case and pass such order in respect thereto as it thinks fit.

5 of 1908.

(9) Where no application has been made to the High Court for revision, the Controller may exercise the powers of review in accordance with the provisions of Order XLVII of the First Schedule to the Code of Civil Procedure, 1908.

(10) Save as otherwise provided in this section, the procedure for the disposal of an application for eviction on the ground specified in section 13A shall be the same as the procedure for the disposal of applications by Controllers."

7. In section 19 of the Principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

Amendment of section 19.

"(2A) A landlord who, having evicted a tenant from a residential or a scheduled building in pursuance of an order made under section 13A, does not occupy it or lets it out in contravention of the provisions of sub-section (4A) of section 13, shall be punishable with imprisonment for a term which may extend to two years and with fine."

8. The existing Schedule to the principal Act shall be numbered as Schedule I thereof and, after the Schedule as so numbered, the following Schedule shall be added, namely:—

Addition of Schedule II.

"SCHEDULE II

[See section 18B]

FORM OF SUMMONS IN A CASE WHERE RECOVERY OF POSSESSION OF RESIDENTIAL OR SCHEDULED BUILDING IS PRAYED FOR ON THE GROUND SPECIFIED IN SECTION 13A OF THE EAST PUNJAB URBAN RENT RESTRICTION ACT, 1949, AS IN FORCE IN THE UNION TERRITORY OF CHANDIGARH

To

[Name, description and place of residence of the tenant.]

WHEREAS Shri _____ has filed an application (a copy of which is annexed) for your eviction from (here insert the particulars of the residential or scheduled building) on the ground specified in section 13A of the East Punjab Urban Rent Restriction Act, 1949, as in force in the Union territory of Chandigarh;

You are hereby summoned to appear before the Controller within fifteen days of the service hereof and to obtain the leave of the Controller to contest the application for eviction on the ground aforesaid; in default whereof, the applicant will be entitled at any time after the expiry of the said period of fifteen days to obtain an order for your eviction from the said residential or scheduled building.

Leave to appear and contest the application may be obtained on an application to the Controller supported by an affidavit as is referred to in sub-section (5) of section 18B of the said Act.

Given under my hand and seal.

This day of 19

Controller.”.

FAKHRUDDIN ALI AHMED,
President.

K. K. SUNDARAM,
Secy. to the Govt. of India.